

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CARL BROWN,

Plaintiff,

V.

PAUL CHAPPIUS, JR., et al.,

Defendants,

13-CV-105

DECISION
AND ORDER

Before the Court for review is Magistrate Judge Leslie G. Foshcio's Report and Recommendation of August 11, 2016 (Dkt. No. 139). This case was reassigned to the Honorable Michael A. Telesca on May 14, 2019. For the reasons discussed herein, the Court adopts the R&R in full.

PROCEDURAL HISTORY

Carl Brown ("Plaintiff") proceeding pro se, commenced this civil rights action on February 5, 2013, asserting various claims for relief against Defendants, all employees of New York State Department of Corrections and Community Supervision (DOCCS). On July 25, 2013, Plaintiff filed an amended complaint alleging constitutional violations while incarcerated at Elmira Correctional Facility. Defendants filed a motion for summary judgment (Dkt. No. 96) on February 27, 2015. Thereafter, on January 14, 2016, Plaintiff filed a motion for an injunction (Dkt. No. 117) requesting the Court to transfer him from Clinton Correctional

Facility. On March 31, 2016, Defendants filed their opposition to this motion for injunction. In a Report and Recommendation dated August 11, 2016, Magistrate Judge Leslie Foschio filed a Report and Recommendation granting Defendants' motion for summary judgment (Dkt. No. 96) and denying Plaintiff's motion for injunctive relief (Dkt. No. 117).

The law provides that either party may serve and file written objections "[w]ithin fourteen days after being served with a copy" of the Report and Recommendation. 28 U.S.C. § 636(b)(1)(c). Plaintiff filed timely objections (Dkt. No. 145) to the Report and Recommendation. Defendants did not file any objections but did file a response to Plaintiff's objections (Dkt. No. 149). A district court must conduct a de novo review of the parts of a Report and Recommendation to which a party objects. See 28 U.S.C. § 636(b)(1)(C). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

After review of the extensive record, and for the reasons stated herein, Defendants' motion for summary judgment is granted and Plaintiff's motion for injunctive relief is denied.

CONCLUSION

After carefully analyzing each of Plaintiff's claims, the

Court agrees with Magistrate Judge Foschio's recommendation granting Defendants' motion for summary judgment (Dkt. No. 96). The Court, having reviewed de novo Magistrate Judge Foschio's Report and Recommendation and Plaintiff's objections, hereby adopts the proposed findings for the reasons stated in Magistrate Judge Foschio's Report and Recommendation (Dkt. No. 139). Therefore, the objections are **OVERRULED** and the Report and Recommendation is **ACCEPTED and ADOPTED** as the opinion of the Court. Defendants' motion for summary judgment (Dkt. No. 96) is **GRANTED** and Plaintiff's Amended Complaint is **DISMISSED WITH PREJUDICE**. The Defendant's motion for an injunction requesting the Court to transfer him to another correctional facility is **DENIED** as moot (Dkt. No. 117). Plaintiff's motions requesting trial transcripts, a status conference, and to compel the Court to answer defendants' summary judgment (Dkt. Nos. 167, 168, and 169) are all **DENIED** as moot.

ALL OF THE ABOVE IS SO ORDERED.

S/Michael A. Telesca

MICHAEL A. TELESKA
United States District Judge

Dated: Rochester, New York
May 20, 2019